



JAMES E. JOHNSON
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MONALIZA SEEPERSAUD
Assistant Corporation Counsel
Labor & Employment Law Division
Phone: (212) 356-0839

January 12, 2021

By ECF

Honorable Andrew L. Carter
United States District Court
Southern District of New York
40 Foley Square, Room 435
New York, NY 10007

MEMO ENDORSED

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#: _____
DATE FILED: 1/21/2021

Re: Cindy Plasencia v. City of New York Department of Education and
Maureen Fullerton
19-CV-11838 (ALC)(RL)

Dear Judge Carter:

I am an Assistant Corporation Counsel in the office of James E. Johnson, Corporation Counsel of the City of New York, attorney for Defendants New York City Department of Education (“DOE”), and Maureen Fullerton. Defendants write to respectfully request that discovery in this matter be stayed pending resolution of Defendants’ motion to dismiss the Complaint, which was filed on January 12, 2021. Plaintiff consents to the stay of discovery.

Plaintiff pro se, formerly employed by the DOE as a para-professional, brings this case pursuant to 29 U.S.C. §§ 621–634 (“ADEA”); 29 U.S.C. §§ 2601–2654 (“FMLA”); and N.Y. Exec. Law §§ 290–297 (“SHRL”); and, depending on how it is read, possibly pursuant to 42 U.S.C. §§ 12101–12213 (“ADA”). Specifically, she claims that she was discriminated against and harassed and terminated because of her age, her medical leave, and her disability.

As described in Defendants’ motion, the Complaint is fatally flawed because: (1) Plaintiff’s SHRL claims are barred by the election of remedies doctrine and an administrative “no probable cause” finding; (2) there is no individual liability under the ADEA and ADA, thus all claims against the individually named defendant pursuant to the ADEA and ADA must be dismissed; (3) Plaintiff failed to file a notice of claim, therefore all of her State claims must be dismissed; (4) Plaintiff failed to demonstrate personal involvement by the individually named defendant; (5) Plaintiff failed to state a claim for age and disability discrimination under all statutes; (6) Plaintiff failed to state a claim pursuant to the FMLA; and (7) Plaintiff failed to state a claim for hostile work environment under all statutes. Accordingly, Defendants respectfully

assert that the pending motion is strong. At a minimum, defendants believe the motion would greatly narrow the scope of discovery.

Rule 26(c) permits a stay of discovery pending resolution of a motion to dismiss where good cause is shown for the stay.

For all of the reasons described above, Defendants respectfully request a stay of discovery in this matter pending resolution of Defendants' motion to dismiss the Complaint.

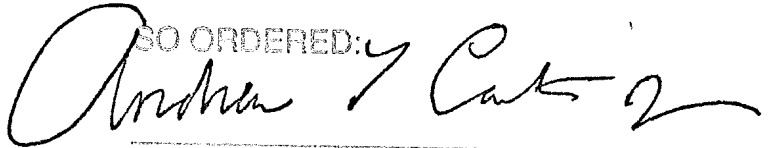
Thank you for your consideration of this matter.

Respectfully submitted,

/s/ Monaliza Seepersaud

Monaliza Seepersaud
Assistant Corporation Counsel

To: Cindy Plasencia (By E-mail)
cinnar01@gmail.com

SO ORDERED:


HON. ANDREW L. CARTER, JR.
UNITED STATES DISTRICT JUDGE

Dated: 1/21/2021